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10 Attorneys for Defendants,  
11 LITTON LOAN SERVICING LP and  
12 HSBC BANK USA NATIONAL  
13 ASSOCIATION, AS TRUSTEE

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

10 NICHOLAS AGBABIAKA,

11 Plaintiff,

12 vs.

13 HSBC BANK USA NATIONAL  
14 ASSOCIATION, individually and as trustee  
15 for OWNIT MORTGAGE LOAN TRUST,  
16 MORTGAGE LOAN ASSET-BACKED  
17 CERTIFICATES SERIES 2005-2, ITS  
18 ASSIGNEES AND/OR SUCCESSORS,  
19 CONTRA COSTA COUNTY TRUSTEE,  
20 MORTGAGE ELECTRONIC  
21 REGISTRATION SYSTEMS, INC.;  
22 LITTON LOAN SERVICING, LP, ALL  
23 PERSONS UNKNOWN, CLAIMING ANY  
24 LEGAL OR EQUITABLE RIGHT, TITLE,  
ESTATE, LIEN, OR INTEREST IN THE  
PROPERTY DESCRIBED IN THIS  
COMPLAINT ADVERSE TO  
PLAINTIFF'S TITLE THERETO, and Does  
1 - 30, inclusive,

Defendants.

Case No. CV 09-03982 JSW

[PROPOSED]  
ORDER TO EXPUNGE LIS  
PENDENS DUE TO THE COURT'S  
ORDER OF DISMISSAL

1 PLEASE TAKE NOTICE THAT on November 12, 2009, the Court entered an  
2 Order Dismissing without Prejudice for Failure to Prosecute, which took Defendants',  
3 LITTON LOAN SERVICING LP ("LITTON" and/or "Defendant") and HSBC BANK  
4 USA NATIONAL ASSOCIATION AS TRUSTEE FOR OWNIT MORTGAGE LOAN  
5 TRUST, MORTGAGE LOAN ASSET-BACKED CERTFICATES, SERIES 2005-2  
6 (hereinafter "HSBC BANK" or "Defendants") Motion to Expunge Lis Pendens off  
7 calendar. Therefore, since this matter has been dismissed, the Notice of Pendency of  
8 Action pertaining to this action is moot and subject to expungement from the official  
9 records of Los Angeles County. A true and correct copy of the Order of Dismissal is  
10 attached hereto as **Exhibit "1"** and incorporated herein by reference.

11 **WHEREFORE, IT IS HEREBY ORDERED THAT:**

12 The Lis Pendens recorded on September 2, 2009, as Instrument No. 20090210866  
13 in the official records of Los Angeles County is expunged from the official records, and  
14 a copy of this Order may be recorded in the official records. A true and correct copy of  
15 the Notice of Pendency of Action is attached hereto as **Exhibit "2."**

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17 Dated: November 30, 2009

18 By:   
19 Judge of the United States District Court

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# **EXHIBIT “1”**

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## 6 IN THE UNITED STATES DISTRICT COURT

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## FOR THE NORTHERN DISTRICT OF CALIFORNIA

9

NICHOLAS AGBABIAKA,

10

Plaintiff,

No. C 09-03982 JSW

11

v.

**ORDER DISMISSING WITHOUT  
PREJUDICE FOR FAILURE TO  
PROSECUTE**

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HSBC BANK USA NATIONAL  
ASSOCIATION, et al.,

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Defendants.

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On October 8, 2009, Defendants Litton Loan Services and HSBC Bank USA filed a motion to dismiss, a motion to strike, and a motion to expunge lis pendens, and noticed each of those motions for hearing on November 13, 2009. On October 9, 2009, this Court issued an Order continuing the hearing and setting a briefing schedule, by which Plaintiff's opposition briefs to the motions were due on October 30, 2009. As of November 3, 2009, Plaintiff had not filed an opposition to the motion or filed a request to extend the time by which the opposition briefs could be filed.

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Thus, on that date, the Court issued an Order to Show Cause why the motions should not be granted as unopposed or why this matter should not be dismissed for failure to prosecute. In the Court's Order to Show Cause, the Court advised Plaintiff that failure to respond to the Order to Show Cause might result in the Court's ruling on the motions as unopposed or dismissing the action for failure to prosecute without further notice to Plaintiff.

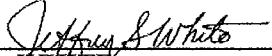
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1 Plaintiff's response to the Order to Show Cause was due by no later than November 10,  
2 Plaintiff has not responded to the Order to Show Cause, has not filed oppositions to the  
3 Defendants' motions, and has not sought an extension of time to respond.

4 Accordingly, the Court shall dismiss this matter without prejudice for failure to  
5 prosecute. The Clerk is directed to close the file.

6 **IT IS SO ORDERED.**

7  
8 Dated: November 12, 2009

  
9 JEFFREY S. WHITE  
10 UNITED STATES DISTRICT JUDGE

# **EXHIBIT “2”**

1 **PHYLLIS VOISENAT, ESQ. (CSB# 159095)**  
2 **ATTORNEY AND COUNSELOR AT LAW**  
3 1330 Broadway, Suite 1035  
4 Oakland, Ca. 94612  
5 Tel: (510) 272-9410  
6 Fax: (510) 272-9158

7  
8 Attorney for Plaintiff  
9 **NICHOLAS AGBABIAKA**

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11  
12 **UNITED STATES DISTRICT COURT**  
13  
14 **NORTHERN DISTRICT OF CALIFORNIA**

15 **NICHOLAS AGBABIAKA**

16 **PLAINTIFF,**

17 **VS**

18 **HSBC BANK USA NATIONAL  
ASSOCIATION, individually and as  
trustee for OWNIT MORTGAGE LOAN  
TRUST, MORTGAGE LOAN ASSET-  
BACKED CERTIFICATES, SERIES, 2005-  
2, ITS ASSIGNEES AND/OR  
SUCCESSORS, CONTRA COSTA  
COUNTY TRUSTEE, MORTGAGE  
ELECTRONIC REGISTRATION  
SYSTEMS, INC , LITTON LOAN  
SERVICING, LP , ALL PERSONS  
UNKNOWN, CLAIMING ANY  
LEGAL OR EQUITABLE RIGHT,  
TITLE, ESTATE, LIEN, OR  
INTEREST IN THE PROPERTY  
DESCRIBED IN THIS  
COMPLAINT ADVERSE TO  
PLAINTIFF' S TITLE THERETO  
AND DOES 1-30, INCLUSIVE.**

19 ) Case No.: 09-03982JSW  
20 )  
21 ) NOTICE OF PENDANCY OF ACTION  
22 )  
23 ) **HSBC BANK USA NATIONAL  
ASSOCIATION, individually and as  
trustee for OWNIT MORTGAGE LOAN  
TRUST, MORTGAGE LOAN ASSET-  
BACKED CERTIFICATES, SERIES, 2005-  
2, ITS ASSIGNEES AND/OR  
SUCCESSORS, CONTRA COSTA  
COUNTY TRUSTEE, MORTGAGE  
ELECTRONIC REGISTRATION  
SYSTEMS, INC , LITTON LOAN  
SERVICING, LP , ALL PERSONS  
UNKNOWN, CLAIMING ANY  
LEGAL OR EQUITABLE RIGHT,  
TITLE, ESTATE, LIEN, OR  
INTEREST IN THE PROPERTY  
DESCRIBED IN THIS  
COMPLAINT ADVERSE TO  
PLAINTIFF' S TITLE THERETO  
AND DOES 1-30, INCLUSIVE, CCP 405.20**  
24 )  
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1 DEFENDANTS.  
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3 Notice is hereby given that the above-entitled action was filed in the United States  
4 District Court for the Northern District of California on August 27, 2009 by Plaintiff, Nicholas  
5 Agbabiaka against **HSBC BANK USA NATIONAL ASSOCIATION**, individually and as  
6 trustee for **OWNIT MORTGAGE LOAN TRUST, MORTGAGE LOAN ASSET-**  
7 **BACKED CERTIFICATES, SERIES, 2005-2, ITS ASSIGNEES AND/OR SUCCESSORS,**  
8 **CONTRA COSTA COUNTY TRUSTEE, MORTGAGE ELECTRONIC**  
9 **REGISTRATION SYSTEMS, INC , LITTON LOAN SERVICING, LP , ALL PERSONS**  
10 **UNKNOWN, CLAIMING ANY LEGAL OR EQUITABLE RIGHT, TITLE,**  
11 **ESTATE, LIEN, OR INTEREST IN THE PROPERTY DESCRIBED IN**  
12 **THIS COMPLAINT ADVERSE TO PLAINTIFF' S TITLE THERETO AND**  
13 **DOES 1-30, INCLUSIVE.**

14  
15 The action affects title to specific real property and the right to possession of real  
16 property identified in the Complaint in the action. The real property affected by the action is  
17 commonly known as 27 Crest Avenue, Point Richmond, California, 94801, located in Contra  
18 Costa County and its legal description is attached hereto as Exhibit A, and incorporated fully  
19 herein.

20 Dated 8/31/09 .  
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23 \_\_\_\_\_ /s/Phyllis Voisenat \_\_\_\_\_  
24 Phyllis Voisenat, Esq.  
25 Attorney for Plaintiff

**Certificate of Service**

I Ade Hamza declare that I am over the age of 18, and not a party to the within action; my business address is 7850 Edgewater Drive, Oakland, California, 94621.

On September 1, 2009, I served the foregoing documents described as: Notice of Pendency of Action, on the interested parties by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, sent by certified mail, return receipt requested, in the United States mail at Oakland, addressed as follows:

Paul Lawrence, President and Chief Executive Officer  
HSBC Bank USA, N.A.  
1800 Tysons Blvd  
Mc Lean, VA 22102

James Hester, Esq.  
McCarthy Holthus LLP  
1770 Fourth Avenue  
San Diego, CA 92101

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct.

Executed on September 1, 2009, at Oakland, California.

/s/ Ade Hamza

Ade Hamza

**Description:**

The land referred to herein is situated in the State of California, County of Contra Costa, City of Richmond, and is described as follows:

THE SOUTH 10 FEET OF LOT 14 AND ALL OF LOTS 15 AND 16 IN BLOCK "K", AS DESIGNATED ON THE FILED MAP ENTITLED "MAP OF NICHOLL SUBDIVISION OF THE TOWN OF RICHMOND", WHICH MAP WAS FILED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, ON AUGUST 28, 1960, IN VOLUME E OF MAPS, AT PAGE 110.

EXCEPTING FROM LOT 16: THE INTEREST AWARDED TO CITY OF RICHMOND IN THE FINAL ORDER OF CONDEMNATION, LOCAL SUPERIOR COURT, A CERTIFIED COPY OF WHICH WAS RECORDED IN THE OFFICE OF THE LOCAL COUNTY RECORDER ON APRIL 15, 1916, BOOK 252, DEEDS, PAGE 118.

EXCEPTING FROM LOTS 15 AND 16: THAT PARCEL OF LAND DESCRIBED IN THE DEED TO DEPARTMENT OF VETERANS AFFAIRS, RECORDED SEPTEMBER 3, 1963, BOOK 442, OFFICIAL RECORDS, PAGE 581, O.R.

APN: 553-072-016

Exhibit A